

MINUTES SUMMARY OF THE COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE MEETING

AUGUST 22-23, 2000 – 19th Meeting

A meeting of the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) was held at Coast Guard Headquarters, Washington, D.C. Representing the Coast Guard were: RADM Robert North, Assistant Commandant for Marine Safety and Environmental Protection (G-M); RADM Terry Cross, Assistant Commandant for Operations (G-O); RADM Kenneth Venuto, Director of Operations Policy (G-OP); CAPT Brian Basel, Chief, Office of Compliance (G-MOC); CAPT Jon Sarubbi, Executive Director for CFIVAC; CDR Mike Cerne, Chief, Fisheries Law Enforcement Branch (G-OPL-4); LCDR Jung Lawrence, Data Analyst, Office of Investigations and Analysis (G-MOA-2); LCDR Chris Roberts, Chief of the Fishing Vessel Safety Division (G-MOC-3); LT Jennifer Williams, Fishing Vessel Safety Division (G-MOC-3); and ENS Chris O'Neal, Fishing Vessel Safety Division (G-MOC-3). The following Committee members were present:

Ms. Barbara Bragdon, Dennisport, MA	Mr. John Lewis, Capitola, CA
Mr. Gregory Switlik, Sr., Trenton, N.J.	Ms. Beverly Noll, Crescent City, CA
Ms. Angela Sanfilippo, Gloucester, MA	Mr. Sean Martin, Honolulu, HI
Mr. David Hamaker, Anchorage, AK	Ms. Ginny Goblirsch, Newport, OR
Ms. Linda Bonet, St. Paul, MN	Ms. Kathy Ruhle, Wanchese, NC
Mr. James Herbert, Seward, AK	Ms. Auria Vanison, Seattle, WA
Mr. Rutledge Leland, McClellanville, SC	Mr. David Jenkins, Lee, NH
Mr. David Green, Seattle, WA	Ms. Leslie Hughes, Seattle, WA

The following Committee member was absent:

Mr. Pete Aparicio, Victoria, TX

The meeting was brought to order by Chairman Herbert. The Committee, Coast Guard, and audience members made introductions.

RADM North swore in new members, Mr. Hamaker, Mr. Jenkins, Mr. Lewis, Ms. Noll, Mr. Switlik, and Ms. Vanison.

RADM North presented awards to the outgoing committee members for their work with the CFIVAC. Outgoing members who received the awards were Mr. Green, Ms. Goblirsch, Mr. Leland, Mr. Martin, and Ms. Sanfilippo. Mr. Aparicio was not present to receive his award.

RADM North welcomed Committee and audience members. He thanked outgoing members whose terms expire Oct. 31, 2000. RADM North said that since last year's meeting, seven regional listening sessions were held and fishermen across the nation responded to surveys to get their views on the action plan. He encouraged CFIVAC members to use the sub-committee structure to flesh out important action areas such as mandatory exams, certificate-based training, improvements in data normalization, and to discuss regionalization issues. He noted that in 2001, the CG will dedicate the whole issue of the *Marine Safety Council Proceedings* magazine to commercial fishing vessel safety. He requested member participation in the publication to get the important industry perspective. Members will be contacted in January 2001, he said, to request articles that can be included in the publication.

RADM North added that fishermen had improved their knowledge level of safety equipment and how to use it, thereby resulting in a decrease in the number of fishermen lost at sea, despite no corresponding decline in the loss of fishing vessels. He then discussed the new reorganization in the Office of Compliance (G-MOC). The reorganization allows for a division dedicated for Commercial Fishing Vessel Safety (G-MOC-3). He said the Division will be headed by a GS-14 civilian to maintain greater stability and continuity. He explained that while still important, CG emphasis has shifted from traditional inspection and regulation processes to results-oriented outcomes that demonstrably save lives, such as proper training in use of safety gear, stability, and watertight integrity.

RADM North thanked Committee members for their time and efforts to improve fishing vessel safety and introduced RADM Cross.

RADM Cross emphasized the importance of the work the Committee had been doing and congratulated new members. He said the two challenges to increase fishing vessel safety are prevention and response. Pointing out the need for additional work on vessel seaworthiness, he said that since the passage of the Fishing Vessel Safety Act, passed by Congress in 1988, there has been a 60 to 70 percent decrease in lives lost but only a 30 percent decrease in vessels lost.

The floor was then open to questions.

Mr. Switlik expressed the need for good fishing vessel casualty data. He said the CG had provided spreadsheet casualty data on vessels and people lost by District in the past but none since November 1999. He said data for 2000, even if incomplete, would be much appreciated. He added that M was always helpful with equipment issues but there was a lack of information coming from O.

RADM North responded that data will be forthcoming. Also, spreadsheet data and data on a computer CD were distributed to Committee members later in the meeting by LT Williams.

Chairman Herbert welcomed everyone and said their diversity was a strength to the Committee. Compared to towboat and passenger vessels, the fishing vessel industry is different, he said. For instance, lobstermen are different from urchin and squid fishermen. The independent nature of the fishing vessel industry sets it at a greater distance from the regulations compared to other marine industries. It is in our best interest, he opined, to take the initiative regarding improving safety regulations, to prevent Congress from stepping in to hammer us should an accident happen. Maintaining the status quo is no longer acceptable. He instructed Committee members to take a large overview on issues when in subcommittee, vice only regional special interests.

Minutes from the last meeting were then unanimously approved by the Committee. In a follow-up discussion to the minutes, Mr. Green emphasized the need for the minutes to reflect in detail what actually took place and the need for continuity in a minutes taker from one meeting to the next. Chairman Herbert and other Committee members voiced their assent to these suggestions.

Chairman Herbert said that hopefully in a couple of weeks, each Committee member would receive a draft copy of the minutes to review for accuracy and that feedback would be welcomed and accepted. He said this process would be done via e-mail and LT Williams would be the recipient for any proposed changes. Also, e-mail URLs, addresses, and phone numbers of each Committee member were distributed to all members so they could correspond amongst themselves.

Mr. Hamaker said there's a problem with the CG's information dispersal, citing the need for a user-friendly web page with links on that page to fishing vessel issues. He also mentioned the need for a smooth information flow between the CG and the fishing industry.

Responding to a question of information regarding the CG's Near Miss and Safety Reporting System, RADM North said the CG is looking for 2001 funding to start the prototype – since 2001 funding has been zeroed out by Congress. However, in the interim, the CG is still going ahead by reprogramming some funding, though it will still be underfunded. He said there's a lot of support for that system. He said NASA will receive the Near Miss Report and keep it confidential so that it can't be linked back to the sender. He said that for every casualty, there are about 600 near misses and that the system, slated to start this fall, would be a tool for improved prevention.

RADM North explained the budget process, saying it is one thing to get a program approved and another to get it adequately funded. He said the CG had received supplemental funding for 2000 and that there is still some legislative work to be done for 2001 funding. Nothing more for 2000 will be made available until after the elections when the new administration is in place, he said.

Mr. Green cited the need to enforcing existing fishing safety regulations before recommending new ones. He said the focus should be in high-risk areas.

CAPT Sarubbi gave an overview of the reorganization of the Office of Compliance (G-MOC) with its new Fishing Vessel Safety Division. Organization charts were distributed to members.

Responding to Mr. Hamaker's concerns for lack of funding and manpower for the new Fishing Vessel Safety Division, RADM North and CAPT Sarubbi stressed that the reorganization would provide a better focus and visibility, as well as resources, to fishing vessel safety issues – considered a high risk area. CAPT Sarubbi said Fishing Vessel Safety is one of the eight flagship initiatives that the CG Commandant closely monitors and focuses on.

In the next order of business, LT Williams presented the "Commercial Fishing Vessel Safety (CFVS) Action Plan Summary, in PowerPoint. The summary contained an overview of the CFVS action plan for improving safety and reducing crewmember fatalities in the fishing industry, a review of the results of the information collected at the Regional Listening Sessions (RLS), and a discussion of the modifications to the Action Plans the CG has proposed based on input received during the RLS and from the informal survey provided to the fishing industry. Input from the CFIVAC would be used to help determine the direction the CG should take to finalize the Action Plan implementation strategy to reach safety goals while maintaining economic viability of commercial fishing.

LT Williams said that since the last CFVS meeting in October 1999, the seven RLSs held across the country were attended by 297 industry members and 82 area Coast Guardsmen.

She said local fishing vessel safety examiners and district coordinators distributed an informal survey to fishing communities before and after each RLS. The 121 surveys returned indicated a wide variety of vessel gear types used by respondents: pots/traps 22%; gill nets 16%; dive 4%; trawl 12%; seine 8%; longline 21%; and other 17%. The surveys also indicated a wide variety of fisheries respondents engage in: shrimp 5%; crab 9%; rockfish 10%; salmon 22%; lobster 8%; clam 2%; halibut 12%; cod 12%; and other 20%.

General support was given for the following eight action items, she said. The action items with related comments follow:

1. Improve drill enforcement by striving to better enforce existing regulations and to pursue regulatory initiatives to require mandatory logging of drills.
2. Complete a regulatory project on vessel stability and watertight integrity for new fishing vessels less than 79 feet. Most vessels lost from 1994 to 1998 were below 80 feet in length (587) while just 35 vessels were over 80 feet in length. However, 98% of all commercial fishing vessels are less than 80 feet in length. This project is now active and is awaiting a cost/benefit analysis. LT Williams also presented the following related data, captured from 1994 to 1998: Drowning/missing account for 86% of all fishermen deaths. Stability and/or watertight integrity were causal factors in 49% of all fishing vessels lost. Deaths/missing by top five causal factors were flooding, sinking, capsizing 56%; falls overboard 29%; diving 7%; pulled overboard by gear 5%; and fire/smoke 3%.
3. Improve casualty investigations and analysis. No new legislative authority is needed to do this. Development of the new Marine Safety Network is underway with the first modules expected to be operational by March 2001. Additionally, data will continue to be gathered and analyzed through the Office of Investigations and Analysis.
4. Improve communications by continuing to send safety alerts from Districts to fishing communities; developing an internet page (should be up later next year); placing commercial fishing articles in national publications and periodicals; and providing media guidance to local public affairs officers regarding lessons learned and post-casualty survival success stories. Respondents from the RLSs and surveys indicated that newsletters are the most effective way to get the word out to fishermen and the newsletters should be region specific. Respondents also indicated that communications will improve if the Coast Guard continues "walking the docks" and utilizes fish associations more effectively to pass along information. Plans are underway to produce a national or regional fishing safety newsletter later next year. The CG is pursuing all other recommendations given.
5. Coordinate fishing management with safety. Many comments received at the RLSs requested the CG to veto or actively lobby against National Marine Fisheries Service (NMFS) requirements that appear to negatively impact safety. While the CG cannot veto fisheries management decisions, they can and will bring attention to policies that could be detrimental to safety under National Standard 10. The CG has met with NMFS leaders to discuss practical ways to implement NS10 and establish a safety culture within the Regional Fishery Management Councils. ADMs North and Cross will actively promote high-level "M" participation in Council meetings and ensure "M" and "O" perspectives for safety and enforcement are heard. Also, recommend establishing an agreement between the CG and NMFS to meet semi-annually to address safety issues from the national perspective that have percolated from district levels. Also recommend district coordinators report safety problems quarterly to regional councils.
6. Initiate mandatory vessel examination program, similar to the current voluntary program, provided the examiner also give educational focus and fewer at-sea safety boardings. Some respondents from RLSs and surveys said mandatory exams should be conducted only after economic pressures associated with fishery management policies are substantially reduced. Respondents said fishing vessel exams save lives but currently, too much time is spent trying to persuade fishermen to allow them on board and too little time actually conducting the exams. Data show a correlation from 1992 to 1995 of reduced fatalities as a function of increased voluntary dockside exams. However, incentives are lacking to make the voluntary program more popular (currently about 7% participation). Respondents believe safety can be increased without implementation of a full-blown vessel inspection program, provided existing safety regulations are met through a periodic exam program before they put to sea. The CG believes streamlined dockside exams are a safer, more efficient way to compel compliance and are more palatable to fishermen who feel excessively inconvenienced by the CG during at-sea boardings. If support is received from the CFIVAC, the CG intends to initiate a Legislative Change Proposal in January 2001 to get authority to require periodic safety exams.
7. Mandatory hands-on, training programs followed up with refresher requirements. Respondents opposed a formal training-based certificate program for all crewmembers, but support a formal training requirement for the operator. Based on a review of 1,100 marine casualty investigations, a common theme was unfamiliarity of safety equipment. Respondents listed a wide variety of

issues relating to safety, with the top 10 (from first to last) as: weather; man overboard; crew quality; sinking/flooding; deck safety; charter ops; fire; maintenance; equipment cost; and lack of training. Most of these are issues fishermen can prepare for. Also, respondents favored training in the following (from first to last): man overboard; fighting fires; damage control and watertight integrity; donning immersion suits; abandon ship; survival craft launch; radio distress calls; and activating general alarms. CG will seek legislative authority to develop new regulations. If CFIVAC provides support for this recommendation, the CG intends to require a training-based certificate for the vessel master/operator that must be renewed on a periodic basis. Similar to CFIVAC's 1993 fishing vessel licensing proposal to Congress, CG recommends training for operators include collision prevention rules, navigation skills, seamanship, stability, fire prevention/control, vessel regulations, weather, personal survival, first aid, and CPR. CG will not recommend seeking authority for certificate-based training for crewmembers, based on opposition from respondents. The transient nature of crewing makes it economically and practically infeasible to do so. However, crewmembers will be trained in emergency preparedness by the master/operator on a recurring basis and logged.

8. Substituting "Territorial Sea Baseline" (TSB) for "Boundary Line," (BL) for application of certain existing safety requirements. The TSB seems to be a more consistent reference in relation to the coastline than the BL and might allow the CG to better align safety regs with risks associated with environmental exposure; simplify applicability of regs; and reduce confusion among law enforcement officers and fishermen regarding equipment requirements. 30% of respondents favored changing the boundary; 34% opposed it; and 36% did not answer the question. However, since opposition to the measure was minimal, the CG intends to change the reference line from the boundary line to a more suitable reference line that is more consistent and easier to interpret by fishermen and law enforcement.

LT Williams said CFIVAC input on the Coast Guard's recommendations as provided in the briefing would be appreciated. A question and answer period (which Chairman Herbert termed a "free-wheeling discussion") followed the CFVS Action Plan Summary.

Mr. Green said that lumping flooding, sinking, and capsizing together as one of the top five causal factors for dead and missing (1994-1998) in the Action Plan Summary is not adequate – they need to be separated. Also, flooding may precede capsizing and that needs to be addressed. Don't yell stability, he said, when flooding, foundering, or overloading could be the major cause. Stability and watertight integrity go hand in hand. Finally, he said, apply those regulations to all vessels lengths above and below 79 feet.

Mr. Switlik said data is missing and flooding should not be listed as a separate category for cause of death. He said the property and people issues need to be separated out in the statistics.

Mr. Hamaker said that the fishing industry believes regulations for vessels less than 79 feet are convoluted, and vessels greater than 79 feet are not being addressed. Many casualty prevention measures are on the books but applicability is limited.

Mr. Switlik said that an acceptable level of deaths in big and small boats needs to be found and that too much time has been spent in debating regions and boat size advantages.

Ms. Goblirsch said that in the U.S. you need to look at the big picture – there are now few new boats being built, and it's meaningless to discuss the stability of new vessels when we need to address the current aging fleet.

Moving to another topic, Ms. Goblirsch said there are not enough fishing industry representatives at conventions and hearings and that could pose a problem with vocal people in Congress who have their own special interests and agenda. Ms. Hughes said the CG should schedule meetings when fishermen are not out fishing. Ms. Sanfilippo said a hearing was held in Rockport, Maine, a hard-to-get-to place for many New England fishermen. She said the Boston area would have been better.

Responding to a concern from a member of the audience regarding voluntary dockside safety exams of vessels, CAPT Sarubbi said voluntary exams are non-punitive and the purpose is education, but he agreed that many feel there's not the incentive to request them and they've so far been a failure.

Regarding the voluntary dockside exam, Ms. Goblirsch said fishermen are told that their chances of being boarded are reduced, but they do not see it that way – fishermen perceive that if they take the voluntary exam their chances of being boarded are even greater and boats with exam stickers are boarded for a longer time. The CG needs to show industry they're being responsive to their concerns; otherwise, it shoots your credibility, she warned.

Mr. Martin said that if you have a sticker, you're boarded even more because boarding officers are aware that inspection requirements at sea are more abbreviated (boarding officers only examine the top five items on vessels with decals, according to CAPT Sarubbi, unless things are wrong). Ms. Noll agreed that the issue needs to be addressed and incentives need to be there.

Ms. Vanison, who works in the marine insurance industry, said marketing of dockside exams is a failure and there needs to be an incentive of reduced premiums. She said the likelihood of reduced premiums is one of the reasons the fishing industry would like to see mandatory dockside exams.

Mr. Green said mechanisms are already in place to regionalize, with CG District commanders taking the initiative to address industry concerns such as dockside exams and give local interpretations of regulations – no need to ask Congress for clarifications and authority because they won't give it anyway.

LT Williams said the CG does not currently have the authority to require exams at the dock, therefore the CG does not have the authority to enforce the regulations at the dock. The regulations can only be enforced when the vessel is operating, so enforcement options are limited to when the vessel is underway. Ms. Ruhle said the exams are the same, whether at dockside or at sea and that examining the same vessel at dock and then again at sea is doing twice the work. She said her vessel was examined at dock and then again at sea and that boarding officers took a long time even though nothing was wrong and the sticker was displayed.

Ms. Goblirsch believes there should be a move to mandatory dockside exams, but that you'd first need to explain the rationale to the industry and Congress. CAPT Sarubbi said there's no objection to mandatory dockside examinations from the CG, only that industry needs to be on board with that issue. Mr. Jenkins said the fishing industry is generally in favor of mandatory examinations.

Ms. Sanfilippo said data is needed for the number of fishing boats boarded at sea and the percentage of those boats found in (or not in) compliance.

CDR Cerne said the CG has that data and would be happy to share it.

Regarding a question from Ms. Hughes regarding on-board training, LCDR Roberts said the crew needs to be able to know what to do in an emergency, should something happen to the master of the vessel. Ms. Hughes said she'd want to take a look at STCW training requirements.

Mr. David Vergun, the minutes keeper, replied that he would bring copies of the CG's STCW issue of *Proceedings* magazine for everyone. That issue contains all training and certification requirements. The next day, he brought everyone a copy of *Proceedings* and a letter that explained: how to submit proposals for fishing vessel safety articles and photos; how to be placed on the subscription list; and how to obtain copies of the Marine Safety Newsletter.

Ms. Noll said there is a data need for tracking people who've completed training, correlated with people involved in accidents. LCDR Roberts said it was a good recommendation to give to her subcommittee for discussion and possible approval.

Mr. Switlik said most countries of the world do not have the infrastructure necessary to provide adequate training. He added that some areas of the United States have that problem as well; for example, there has been a lack of training sessions in Galveston, Texas, some areas along the East Coast and Mississippi and Alabama. He said people's perceived need for training will take a long time and require a cultural and mind shift.

Ms. Goblirsch said drill instructor requirements are never enforced and training requirements are doomed in the Northwest.

Mr. Switlik said there is a need for community resources to provide training and that will take a cooperative effort and time. He noted that if resources are not there, training is doomed to failure.

Disagreeing with Mr. Switlik, CAPT Basel said training is not doomed to failure. He said the U.S. and the rest of the world is gearing up in a big way to STCW requirements, including providing adequate training facilities and equipment such as simulators. He remarked that the National Maritime Center is being saturated with course approvals at large and small training institutions as well as mobile training facilities.

Mr. Switlik said that if there's a fleet of five vessels in North Carolina, they might not be willing to travel to a distant training facility. CAPT Basel said the mobile training course would be available for those situations.

A member of the audience said many countries are ignoring STCW and the U.S. is taking on the largest burden of gearing up for it.

Chairman Herbert said that to be licensed, there's now a minimum standard for basic safety training every five years and that has resulted in a more improved training infrastructure now than a few years ago.

Mr. Switlik said people don't want to drive long distances to take the course. Mr. Lewis said they will if it's mandatory.

Mr. Lewis said the training infrastructure exists for even transitory fishermen and that applicability of training crosses over from boat to boat.

Chairman Herbert said getting crews for boats is tough; and getting properly trained and qualified crews is even tougher. It's an issue of economics.

Mr. Jim Ruhle, an audience member and spouse of Committee member Ms. Ruhle, said the CG needs to expand on current training requirements before adding more. He said additional requirements, unless sold to the industry, wouldn't get through Congress anyway.

because too many industry groups would not let them pass. He said the volunteer program fell apart because it was not made more acceptable to fishermen. He emphasized the importance of volunteer programs with incentives and cautioned that mandatory training would open the door to private enterprise and that there would be an onerous need to find ways to fund them.

CDR Cerne said the CG, as enforcers, needs to remain neutral on this issue, and would comment only where safety is deemed at issue. He added that the CG provides council but sometimes that advice is not followed, even when safety issues are involved.

CAPT Basel said RADM North is strong on CG active participation in its advisory role.

Ms. Sanfilippo said the CG needs to have a greater say in safety issues because their ships are placed in harm's way and they too can lose lives. She said the CG earns the respect of fishermen, who don't want to put CG lives at risk. She cited an example in Gloucester, Massachusetts, where all ships promptly returned to harbor when a severe weather advisory was issued.

Mr. Barry Noll, a member of the Washington, D.C. office of OSHA, presented an OSHA briefing that related to the fishing industry. He cited examples from his experiences in Alaska, where he was previously stationed.

Mr. Noll said OSHA's mission is to protect the health and safety of all Americans. He said the two main tools used are: (1) promulgating and enforcing regulations; and, (2) training and consultative services. We conduct training outside the workplace so we won't see a possible violation, he explained, meaning that OSHA did not want a conflict between its training and enforcement missions. If training is to be conducted at the worksite, people from the state will do it.

Mr. Noll then discussed jurisdictional responsibility, giving a boundary of three marine leagues or nine nautical miles from shore. He said OSHA can relinquish jurisdiction to a state or another federal agency. There are only 1,400 OSHA people worldwide, so their presence is thin. OSHA's jurisdiction in the fishing industry encompasses four areas: uninspected vessels; employees who are not seamen; longshoremen; and shipbuilding, repairing, and breaking.

Mr. Hamaker said that in the real world, the line of jurisdictional responsibilities is not clearly drawn or defined. Mr. Noll agreed with Mr. Hamaker's assessment, saying that there are many legislative intricacies, but there are rules of thumb to follow. He said anyone having questions of this nature can call him at 202-693-2151 and he would find the answer.

Mr. Noll said OSHA's strategic plan for targeting inspections focuses on two areas: shipyards and food processing. He defined food processing as turning a raw product into a food product. After being questioned on that definition, he narrowed it to "changing the form or shape of the raw product." Thus, packing fish into boxes on ice is processing, but merely putting fish on ice is not. Also, once a fish is cleaned, it is considered processed. He stated that although the targets are normally larger vessels and processing, it is conceivable that in the future, smaller vessels where processing does not take place could get targeted and a violation could be issued for something like a slippery floor.

Mr. Noll said OSHA desires to partner with industry to portray a more positive image and thus get more mileage. He conceded, however, that OSHA's bulldog image helps inspire compliance out of fear, a compliance that otherwise would be more difficult to attain due to the low number of OSHA personnel.

However, Mr. Noll stated that there is a 100 percent chance of being a target by OSHA if one of the following OSHA-related event occurs:

- A fatality
- A catastrophe in which three or more are hospitalized
- Employee complaints (will be investigated within five days)
- Targeted inspections in national or local emphasis programs or high hazard industries

Mr. Noll said OSHA inspections consist of three steps: the opening conference; the walk-around; and the closing conference. He said it is important for fishermen to realize that representatives may accompany the inspector during the walk-around. If permission to inspect is denied, OSHA will leave and then obtain an inspection warrant, which gives the needed authority. Mr. Noll said he finds it surprising that vessels with glaring defects are not fixed between the time OSHA is denied boarding to the time the inspection warrant is obtained. He said if a defect is found that is in the CG's jurisdiction, an OSHA inspector will suggest a change as a courtesy and will not issue a citation.

Citations will include dates defects need to be fixed, Mr. Noll said. He said there are four categories of citations: serious; willful; repeat; and other than serious. Fines range from zero to \$70,000 per violation (each instance). He said problems that are fixed usually result in fines being decreased by up to 50 percent; although attorneys can further reduce that percentage.

Mr. Noll explained that if a defect found on one vessel is also found on another vessel, and the two vessels are under common management, then that first defect will be labeled “serious,” “willful,” or “other than serious” and the second defect will be labeled “repeat.”

Mr. Noll said that factors that influence the penalty amount are: seriousness of the violation; probability the violation will result in injury; size of the company; amount of good faith in doing what is required and answering questions of inspectors; and company history of violations.

He said the top 10 OSHA safety violations for the seafood industry are: process safety (such as chemical storage); hazard communications; lockout/tagout; electrical; respiratory; guarding floor and wall openings; personal protective equipment; walking/working surfaces; emergency action plans; and noise.

On average, he said there are four serious and two other than serious citations issued per each OSHA-inspected vessel in Alaska waters. He admitted that OSHA presence on the East Coast is thin, but said that presence is in the process of being significantly beefed up. Currently, he said OSHA gives the CG much of its jurisdiction in this area of the country.

Liaison between OSHA and the CG is made in the following four areas: training; joint inspections; cross-agency referrals (action referred to local marine safety office); and industry (in areas of safety, training, consultation, and partnership).

Mr. Noll distributed handouts to Committee members and informed them that further information is posted on the Internet at: www.osha.gov.

Next, Mr. Dan Hardin, Fishing Vessel Examiner at MSO Puget Sound and retired CG inspector, gave a presentation on a palm pilot job aid being developed for use by boarding officers when conducting F/V safety boardings at sea in the 13th District.

One of the Commandant’s top priorities, according to Mr. Hardin, is conducting at sea boardings of commercial industry fishing vessels to check for federal regulation compliance. He admitted that historically, that task has not been easy, with the many types of vessels and lack of systematic inspection checklist criteria at hand. He and others acknowledged the problem and searched for a remedy. The result was development of a small, hand-held computer checklist inspection aid, referred to as a “palm pilot.” The palm pilot features a touch screen, protective covering, light, power saving feature, and strap to secure it around the neck of an inspector (and a quick release devise if it gets caught). Weakness is that it is somewhat fragile and data cannot be downloaded to a computer or printed out, though Mr. Hardin said that could change as modifications are added, such as Microsoft Access and a printer. He reminded that palm pilot is still in the pilot project stage.

The palm pilot, which relates to the Boarding Report Form (listing boats and deficiencies), can do many things, including: capture vessel data and characteristics and inspection criteria such as route, exemptions, region, and so on. Items can be quickly checked off as to their condition, in pass/fail touch screen check boxes. The main advantages of the palm pilot is elimination of some paperwork; ease in carrying; ease in use; memory storage (multiple type vessels inspected can be stored); inspection criteria and definitions for every type of vessel can be conveniently displayed on screen; and most importantly, increasing the consistency of inspections (checklist is run in a set order), thereby alleviating complaints.

Mr. Hardin said CG managers will be provided testing results and feedback by the end of this year.

CFIVAC members expressed their enthusiasm for the device and Ms. Goblirsch suggested placing a copy of its program on the Internet to give people a demonstration of its ability. Mr. Hardin said that’s his next goal.

Following the conclusion of Mr. Hardin’s presentation, the Committee was divided into four subcommittees as follows:

Training: Ms. Goblirsch; Mr. Switlik; Ms. Hughes; and Ms. Noll

Data: Mr. Green; Mr. Lewis; Mr. Jenkins; and Ms. Sanfilippo

Exams: Mr. Leland; Ms. Vanison; Mr. Hamaker; and Chairman Herbert

Regional: Ms. Bragdon; Ms. Ruhle; Ms. Bonet; and Mr. Martin

Each subcommittee was assigned different meeting locations. This concluded the first day meeting.

On August 23, prior to breaking into groups, the CFIVAC members met as a body in the 2415 Conference Room. ADM North addressed the all members on the challenges of obtaining accurate and thorough data. He acknowledged the difficulties in obtaining

data on fishing vessels and their casualties – especially undocumented vessels and vessels assigned to states (with different rules for each state). He questioned the accuracy of taking data from documented vessels and extrapolating it to undocumented.

Mr. Lewis said there are lots of small state registered vessels that remain undocumented. Mr. Switlik said the situation is even more convoluted because some vessels that should be state registered for fishing are listed as recreation. Mr. Hamaker said it's even more confusing because some vessels can be listed as both fishing and recreation.

At this point, CFIVAC broke into subcommittees to elicit proposals, hash out differences and come to agreement concerning recommendations to present to the CFIVAC for approval and to ADM North for action.

To prevent getting bogged down in debating details that would likely change anyway, Chairman Herbert recommended that subcommittees present their general or conceptual recommendations; and details would follow at a later time. Recommendations and subcommittee background (where pertinent) follows:

1. EXAMINATION SUBCOMMITTEE RECOMMENDATIONS

Final Recommendations: Mandatory risk-based dockside exam program, preferably announced in advance, using the same criteria as for the voluntary program. Program should be phased in and criteria for risk level continually reviewed and monitored.

As phase-in will require time, recommend continuing the voluntary exam program, but strengthened with incentives. Also, self-inspecting could be awarded. Then, if minor problems are later uncovered during boarding and "good faith" is determined, then, a 30-days-to-fix-it notice, instead of a citation, could be issued. An important aspect of self-inspection is that it's free.

Action: CFIVAC voted unanimously in favor

Pre-Approval Discussion: Issues of who would pay for conducting mandatory exams and ensuring the exams are realistic. May need a third party approved by the CG to conduct exams. Or, perhaps follow the OSHA model. OSHA has a limited number of personnel but are effectively targeting high-risk groups. Possibility of self-exams, maybe for those who already have good records. Could be an accountability problem, however, in self-exams but CG can't inspect all vessels in the first year of a mandatory inspection program. At least self-exams would get fishermen thinking of what they need to do to get into compliance. One incentive to bring all on board would be issuing "good job" letters of appreciation. Exams should be conducted during off-season. A job aid utilizing the capabilities of the palm pilot could improve the exam process. There should be an insurance incentive for passing the voluntary dockside exams. There's a need for qualified examiners with a consistent approach. The trust factor in courtesy boardings is lacking – perception that likelihood of at-sea boardings is the same or even increases. Try to get regulatory changes without having to go to Congress.

2. TRAINING SUBCOMMITTEE RECOMMENDATIONS

Final Recommendations: Enhance existing requirements as found in 46 CFR Part 28.265 and 28.270 to allow for the enforcement of current drill requirements; require evidence of training through mandatory logging and certificates; require recertification for formal training every five-years; and require that at least one person onboard each vessel has evidence of formal training.

Action: CFIVAC voted unanimously in favor

Pre-Approval Discussion: Need to show a demonstrable need for hands-on safety training for all crewmen (besides video training) and effectively communicate that need to the industry and Congress or it would create huge resentment. Need to follow-up requirements with good tracking (for a number of years) of the training and the results it is intended to improve. Recommended safety orientation for all crew before vessel leaves dock, but enforcing it could be problematic.

Drill training requirements should be conducted by one of the crew who is qualified to do so; not necessarily the captain (owner and master would be ultimately responsible for training though). Rationale was that the master runs the boats and some crewmembers are good at training and motivating. Full Committee did not desire to include this clause in their final recommendations, citing the transient nature of crew. Also rejected was the Subcommittee's suggestion to mandate that crewmen sign training logs. Reason for rejection was that would be questioning the crewman's integrity and training would have already been demonstrated at drill. However, some in Committee said that for liability and good internal control, they would want to crew to sign, whether mandatory or not.

3. REGIONALIZATION SUBCOMMITTEE RECOMMENDATIONS

Final Recommendations: Allow Districts to create exemptions for vessels; with dates specified for thorough review at expiration. Issues for exemptions should include: history of performance; climates; fisheries; and vessel size. Safety decals and exemption letters should be provided to safety examiner and other appropriate officials. Exemptions should be valid only in the issuing CG District. There should be a consistent inter-District interpretation of exemptions and provision to coordinate exemptions from vessels that sail through more than one District.

Action: CFIVAC voted unanimously in favor

Pre-Approval Discussion: Recommended the CG mail out training videos; not just hand them out at expos. That way, everyone gets them. It is appropriate for commercial fishermen to provide input to the CG. If they are not heard, then private enterprise will give input, while pushing their products. Reason for lack of attendance at RLSs and other hearings is lack of effective advertising and perception of CG as cops, not safety people. Hard to tie safety incentives to lowered insurance premiums because not everyone has insurance; case in point is the Chesapeake, where 50 percent of boats are uninsured. Recommend CG go beyond merely inspecting and inform fishermen what could be required in future inspections. Many of the items discussed in the Regionalization Subcommittee overlapped with other committees.

4. DATA SUBCOMMITTEE RECOMMENDATIONS

Final Recommendations: Undocumented vessels, such as those state registered, as well as documented vessels, should be included in the data. This is especially important since about 20 percent of all casualties are from state-registered boats and this could skew data. Acknowledged elusiveness of capturing good data and the extraordinary effort it will take by the CG to do so. The CG could ferret data from such places as marine fisheries and local associations. In obtaining data, CG should stipulate face-to-face contacts with careful explanation of data needed; not through letters which are often ignored. Also, CFIVAC members look forward to improved data gathering by the CG that will come on line next year (such as through Marine Information for Safety and Law Enforcement system [MISLE] that merge Marine Safety Information System [MSIS] data and will allow that data to be disseminated to CG vessels at sea).

Action: No CFIVAC action required as the process is now underway

Pre-Approval Discussion: Need for full statistics such as confidence percentage of normalized results. Some problems with MSIS data parameters because that system was originally intended to capture inspection data on commercial vessels and is now being used for fishing vessels. The MISLE system should address this problem. For instance, MISLE will communicate to CG vessels at sea, giving complete profiles of fishing vessels, including status of vessel stickers.

In closing remarks, ADM North said the Committee's work has been consistent with past work CFIVAC has started. He emphasized the importance of their work, stating, "if we don't have your support, we won't have any support." He acknowledged that the issues are not easy and that two days is not a long time to grapple with them. He said the CG will work on the Committee's recommendations and ask for further comment as the process continues. He said there's a likelihood that when hearings take place on the Hill, CFIVAC expertise will be needed during testimony. He termed Congressional action a "consensus building process" that is hard to predict. Chairman Herbert was thanked for his leadership and contributions at the Conference and ADM North extended his appreciation to the entire CFIVAC for its good work over the past few years that he worked with them.

Chairman Herbert then gave closing remarks, noting a sea change in attitude coupled with better training and equipment that has resulted in reduced casualties. He thanked ADM North for his leadership in helping make this happen. In administrative remarks, Chairman Herbert said if more information is needed, CFIVAC members would be contacted via e-mail. He requested the CG continue keeping CFIVAC members and the fishing industry in the information loop and continuing the safety improvement process. He anticipated a CFIVAC meeting sometime next spring and asked members to submit agenda recommendations to him and LT Williams by e-mail.

The Committee was adjourned.